

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN J. PADGETT and U.S. POSTAL SERVICE,
AIRPORT ANNEX, MOBILE MUNICIPAL AIRPORT, Mobile, AL

*Docket No. 97-1471; Submitted on the Record;
Issued August 13, 1999*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of total disability on February 2, 1996 causally related to her July 7, 1994 employment-related bilateral carpal tunnel syndrome.

On November 22, 1994 appellant, then a 42-year-old letter carrier, filed an occupational disease claim alleging that she sustained carpal tunnel syndrome which she attributed to factors of her employment. She indicated that she became aware of this condition on July 7, 1994. By decision dated January 9, 1995, the Office of Workers' Compensation Programs accepted that appellant sustained bilateral carpal tunnel syndrome in the performance of duty.¹

In a form report dated May 24, 1995, Dr. Russell A. Hudgens, a Board-certified orthopedic surgeon, diagnosed bilateral carpal tunnel syndrome and noted that appellant was restricted to light duty effective November 22, 1994 with no lifting over five pounds and no gripping, pushing or pulling excessively with hands or wrists.

On October 31, 1995 the employing establishment offered appellant a temporary limited-duty job within the restrictions set by appellant's physician. Appellant accepted this position on November 3, 1995.

By letter dated February 2, 1996, the employing establishment advised appellant that her position as a transitional letter carrier would be terminated as her services were no longer required.

In a Form CA-17, duty status report, dated February 2, 1996, Dr. Hudgens included findings of tenderness of the right wrist and decreased sensation in the hand. He indicated that appellant was able to perform light-duty work.

¹ By decision dated January 17, 1996, the Office granted appellant a schedule award for a 10 percent permanent impairment of the left upper extremity and a 10 permanent impairment of the right upper extremity.

In a form report dated February 27, 1996, Dr. Hudgens stated that appellant was restricted to light-duty work permanently due to her bilateral carpal tunnel syndrome.

In notes dated March 15, 1996, Dr. Hudgens related that appellant continued to have pain and tingling in her hands. He stated that she should continue with her light-duty restrictions with no lifting over five to ten pounds.

In a notice of recurrence of disability dated May 3, 1996, appellant alleged that she sustained a recurrence of disability on February 2, 1996 which she attributed to her job. Appellant alleged that she was required to perform tasks which involved constant use of her hands such as filing, writing notices and testing box locks. She stated that she used the same motions with her wrists and hands in her light-duty position as she had as a letter carrier.

By letter dated May 24, 1996, the Office asked appellant to submit, in support of her recurrence of disability claim, a detailed narrative medical report from her physician to include a rationalized medical opinion explaining the relationship, if any, of her claimed recurrence of total disability to her accepted employment injury. No such report was submitted by appellant at this time.

By decision dated July 3, 1996, the Office denied appellant's claim for a recurrence of disability on February 2, 1996 on the grounds that the evidence of record failed to establish that she sustained a recurrence of disability causally related to her July 7, 1994 employment injury.

By letter dated July 8, 1996, appellant requested reconsideration of the denial of her claim and submitted additional evidence.

In a report dated July 1, 1996, Dr. Hudgens related that he had been treating appellant for bilateral carpal tunnel syndrome since July 7, 1994 and that she still experienced tingling and numbness which woke her up at night and that she had attempted to return to work but had been unable to successfully work due to pain and discomfort. He related that at her last attempt to return to work she was working with light-duty restrictions eight hours per day five days a week with no lifting over five to ten pounds.

In notes dated January 30, 1997, Dr. Hudgens stated that appellant had permanent work restrictions of no lifting over five to ten pounds and no gripping, pushing, or pulling excessively with hands or wrists because of her carpal tunnel syndrome.

In a report dated February 12, 1997, Dr. Hudgens stated that appellant had bilateral carpal tunnel syndrome as well as some triggering in her left little finger. He stated that her present work status was that she was capable of working light duty with no lifting over five pounds, no excessive gripping and no pushing or pulling with her hands or wrists.

By decision dated March 14, 1997, the Office denied modification of its July 3, 1996 decision.²

The Board finds that appellant has failed to meet her burden of proof to establish that he sustained a recurrence of total disability on February 2, 1996 causally related to her July 7, 1994 employment-related carpal tunnel syndrome.

The record shows that appellant returned to work in a light-duty position in November 1995 and that the position was within the work restrictions established by her physician.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden to establish, by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.³

In the instant case, appellant has failed to establish either a change in the nature or extent of her light-duty requirements or a change in her accepted injury-related condition.

In support of her claim of a recurrence of total disability, appellant submitted medical evidence from her attending Board-certified orthopedic surgeon, Dr. Hudgens.

In a Form CA-17, duty status report, dated February 2, 1996, Dr. Hudgens included findings of tenderness of the right wrist and decreased sensation in the hand and indicated that appellant was able to perform light-duty work. As he did not indicate that appellant was totally disabled, this report does not support appellant's claim of an employment-related recurrence of total disability.

In a form report dated February 27, 1996, Dr. Hudgens stated that appellant was restricted to light-duty work permanently due to her bilateral carpal tunnel syndrome. His opinion that appellant was able to perform light-duty work does not discharge appellant's burden of proof to establish that she sustained a recurrence of total disability.

In notes dated March 15, 1996, Dr. Hudgens related that appellant continued to have pain and tingling in her hands. He stated that she should continue with her light-duty restrictions with no lifting over five to ten pounds. As he did not opine that appellant was totally disabled due to a change in the nature or extent of her employment-related condition or a change in the nature or extent of her light-duty requirements, this report does not discharge appellant's burden of proof.

² The Board notes that on appeal appellant submitted medical evidence which was not before the Office at the time it issued its March 14, 1997 and July 3, 1996 decisions. Therefore the Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35 (1952).

³ *See Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Stuart K. Stanton*, 40 ECAB 859, 864 (1989).

In January 30, 1997 notes, Dr. Hudgens indicated that appellant was capable of performing her light-duty job. Therefore, this report does not establish that appellant sustained an employment-related recurrence of total disability.

In a report dated February 12, 1997, Dr. Hudgens stated that appellant had bilateral carpal tunnel syndrome as well as some triggering in her left little finger. He stated that her present work status was that she was capable of working light duty with no lifting over five pounds, no excessive gripping and no pushing or pulling with her hands or wrist. As Dr. Hudgens did not opine that appellant was totally disabled, this report does not support her claim for an employment-related recurrence of total disability. Furthermore, Dr. Hudgens did not explain the relationship, if any, of the trigger finger condition to appellant's employment injury.

Appellant alleged that she sustained a recurrence of total disability on February 2, 1996 because of repetitive tasks in her light-duty position involving her hands. However, she failed to provide factual and medical evidence establishing that there was a change in her light-duty job requirements which caused a recurrence of total disability.

The March 14, 1997 and July 3, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
August 13, 1999

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member